

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RUBIN LAMONT STONE,

Petitioner,

v

Case No. 1:06-cv-595

CINDI CURTIN,

Hon. Wendell A. Miles

Respondent.

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

On September 21, 2006, United States Magistrate Judge Ellen S. Carmody issued a Report and Recommendation (“R & R”) recommending that Rubin Lamont Stone’s petition for writ of habeas corpus be denied. Petitioner has not filed any objections to the R & R. The court, having reviewed the R & R filed by the United States Magistrate Judge in this action as well as the amended petition and its attachments, agrees with the recommended disposition contained in the R & R.

“[A] state court's failure to observe the 120-day rule of IAD Article IV(c) is not cognizable under § 2254 when the defendant registered no objection to the trial date at the time it was set, and suffered no prejudice attributable to the delayed commencement.” Reed v. Farley, 512 U.S. 339, 352, 114 S.Ct. 2291, 2299 (1994). Stone, like the petitioner in Reed, does not suggest that his ability to present a defense was prejudiced by any delay. Any alleged violation did not affect or damage Stone’s ability to get a fair trial, nor does it appear that it caused a

possibility that an innocent man was convicted and imprisoned. His claim is therefore not cognizable under § 2254.

Judgment will be entered accordingly.

Entered this 3rd day of November, 2006.

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge